

APPEAL NO. 020883  
FILED MAY 28, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 20, 2002. The hearing officer resolved the issues before him by determining that the respondent (claimant) had disability from April 20 through October 8, 2001, and that the employer did not make a bona fide offer of employment (BFOE) to the claimant, which would have allowed the appellant (carrier) to adjust the postinjury weekly earnings. The carrier appealed both determinations on sufficiency grounds. The claimant responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant had disability from April 20 through October 8, 2001. The claimant testified that as a result of her compensable injury of \_\_\_\_\_, she was unable to obtain and retain employment at her preinjury wage. See Section 401.011(16). In addition, the medical records in evidence indicate that the claimant had been placed on work restrictions by several doctors.

Further, the hearing officer did not err in determining that the employer did not tender a BFOE to the claimant. One of the several statutory requirements of a BFOE is that the position offered be in keeping with the injured worker's current work restrictions. See Section 408.144(c). The alleged BFOE would have resulted in the claimant having to assist an adult patient's walking and moving about. The claimant had a work restriction to the effect that she should not lift more than 10 pounds.

The hearing officer is the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). While the carrier introduced conflicting evidence on the issues, upon our review of the record, we conclude that the hearing officer's determinations are supported by the evidence, and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Texas Workers' Compensation Commission Appeal No. 001360, decided July 27, 2000.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

---

Gary L. Kilgore  
Appeals Judge

CONCUR:

---

Robert E. Lang  
Appeals Panel  
Manager/Judge

---

Michael B. McShane  
Appeals Judge